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VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

January 16, 2013

Pat Laabs, President
CRI / Criterion, Inc.
Houston - Headquarters
16825 Northchase Drive, Suite 1000
Houston, Texas 77060-6029

Dave Olund, Plant Manager
Jeff Luengo, Environmental Advisor
Criterion Catalysts & Technologies, LP
2840 Willow Pass Road
Pittsburg, CA 94565

**Re: Notice of Violations and Intent to File Suit Under the Federal Water
Pollution Control Act**

Dear Messrs. Laabs, Olund, and Luengo:

I am writing on behalf of California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Clean Water Act ("Act") that CSPA believes are occurring at Criterion Catalysts & Technologies, LP ("Facility") located at 2840 Willow Pass Road in Pittsburg, California. CSPA is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of the Suisun Bay ("Bay") and other California waters. This letter is being sent to you as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as "Criterion Catalysts").

This letter addresses Criterion Catalysts' unlawful discharge of pollutants from the Facility through channels that flow into the Bay. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, California Regional Water Quality Control Board, San Francisco Bay Region ("Regional Board") Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter "General Permit"). The WDID identification number for the Facility listed on documents

Notice of Violations and Intent to File Suit

submitted to the Regional Board is 207I009560. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA") and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, Criterion Catalysts is hereby placed on formal notice by CSPA that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CSPA intends to file suit in federal court against Criterion Catalysts, Pat Laabs, Dave Olund, and Jeff Luengo under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the Order. These violations are described more extensively below.

I. Background.

On December 12, 1992, Criterion Catalysts filed its Notice of Intent to Comply with the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI"). In its NOI, Criterion Catalysts certifies that the Facility is classified under SIC code 2819 (a facility with "industrial inorganic chemicals"). The Facility collects and discharges storm water from its 30-acre industrial site through at least two outfalls that discharge into channels that flow into Suisun Bay.

The Regional Board has identified beneficial uses of the San Francisco Bay region's waters and established water quality standards for the San Francisco Bay in the "Water Quality Control Plan for the San Francisco Bay Basin," generally referred to as the Basin Plan. See http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/basinplan/web/docs/BP_all_chapters.pdf. The beneficial uses of these waters include among others contact and non-contact recreation, fish migration, endangered and threatened species habitat, shellfish harvesting, and fish spawning. The non-contact recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tide pool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities. Water quality considerations relevant to non-contact water recreation, such as hiking, camping, or boating, and those activities related to tide pool or other nature studies require protection of habitats and aesthetic features." *Id.* at 2.1.16. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people's use of the Bay for contact and non-contact water recreation.

The Basin Plan includes a narrative toxicity standard which states that "[a]ll waters shall be maintained free of toxic substances in concentrations that are lethal or that produce other detrimental responses in aquatic organisms." *Id.* at 3.3.18. The Basin Plan provides that

"[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use." *Id.* at 3.3.21. The Basin Plan includes a narrative oil and grease standard which states that "[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or otherwise adversely affect beneficial uses." *Id.* at 3.3.7. The Basin Plan provides that "[w]aters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at 3.3.14. The Basin Plan provides that "[t]he suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses." *Id.* at 3.3.12. The Basin Plan provides that "[w]aters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses." *Id.* at 3.3.19. The Basin Plan provides that "[w]aters shall be free of coloration that causes nuisance or adversely affects beneficial uses." *Id.* at 3.3.4. The Basin Plan provides that "[w]aters shall not contain floating material, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at 3.3.6. The Basin Plan provides that "[t]he pH shall not be depressed below 6.5 nor raised above 8.5." *Id.* at 3.3.9.

The Basin Plan establishes Freshwater ("Fresh") Water Quality Objectives for zinc of 0.12 mg/L (4-day average ("4-DA") and 1-hour average ("1-HA")); for nickel of 0.052 mg/L (4-DA) and 0.47 mg/L (1-HA); for copper of 0.009 mg/L (4-DA) and 0.013 mg/L (1-HA) and for lead of 0.0025 mg/L (4-DA) and 0.065 mg/L (1-HA). *Id.* at Table 3-4. The EPA has adopted freshwater numeric water quality standards for zinc of 0.120 mg/L (Criteria Maximum Concentration – "CMC" and Criteria Continuous Concentration – "CCC"); for nickel of 0.052 mg/L (CCC) and 0.47 mg/L (CMC); for copper of 0.009 mg/L (CMC) and 0.013 mg/L (CCC); and for lead of 0.065 mg/L (CMC) and 0.0025 mg/L (CCC). 65 Fed.Reg. 31712 (May 18, 2000) (California Toxics Rule).

The Basin Plan establishes Marine Water Quality Objectives for zinc of 0.081 mg/L (4-DA) and 0.09 mg/L (1-HA); for nickel of 0.0082 mg/L (4-DA) and 0.074 mg/L (1-HA); for copper of 0.0031 mg/L (4-DA) and 0.0048 mg/L (1-HA); and for lead of 0.0081 mg/L (4-DA) and 0.21 mg/L (1-HA). Basin Plan at Table 3-3. The EPA has adopted saltwater numeric water quality standards for zinc of 0.081 mg/L (CCC) and 0.09 mg/L (CMC); for nickel of 0.0082 mg/L (CCC) and 0.074 mg/L (CMC); for copper of 0.0031 mg/L (CCC) and 0.0048 mg/L (CMC); and for lead of 0.0081 mg/L (CMC) and 0.21 mg/L (CCC). California Toxics Rule.

The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable ("BAT") and best conventional pollutant control technology ("BCT"). The following benchmarks have been established for pollutants discharged by Criterion Catalysts: pH – 6.0 - 9.0 units; total suspended solids ("TSS") – 100 mg/L, oil and grease ("O&G") – 15 mg/L, total organic carbon – 110 mg/L, aluminum – 0.75 mg/L, zinc – 0.117 mg/L, iron – 1.0 mg/L, copper – 0.0636 mg/L, lead – 0.0816 mg/L, nitrate + nitrite nitrogen ("N + N") – 0.68 mg/L, and nickel – 1.417 mg/L.

II. Alleged Violations of the NPDES Permit.

A. Discharges in Violation of the Permit.

Criterion Catalysts has violated and continues to violate the terms and conditions of the General Industrial Storm Water Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand ("BOD"), and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the General Industrial Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

Criterion Catalysts has discharged and continues to discharge storm water with unacceptable levels of total suspended solids, aluminum, copper, iron, nickel, lead, zinc, N+N, pH, and other pollutants in violation of the General Permit. Criterion Catalysts' sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility have contained concentrations of pollutants in excess of numeric water quality standards established in the Basin Plan and the California Toxics Rule and has thus violated Discharge Prohibitions A(1) and A(2) and

Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit.

| Date | Parameter | Observed Concentration | Basin Plan Water Quality Objective/EPA California Toxics Rule | Outfall (as identified by the Facility) |
|-----------|-----------|------------------------|---|---|
| 3/1/2012 | Zinc | 0.76 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | NW Corner |
| 3/1/2012 | Zinc | 0.76 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | NW Corner |
| 3/1/2012 | Zinc | 0.68 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | Shop |
| 3/1/2012 | Zinc | 0.68 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | Shop |
| 10/5/2012 | Zinc | 3.3 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | NW Corner |
| 10/5/2012 | Zinc | 3.3 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | NW Corner |
| 10/5/2012 | Zinc | 1.2 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | Shop |
| 10/5/2012 | Zinc | 1.2 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | Shop |
| 5/18/2011 | Zinc | 2.4 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | NW Corner |
| 5/18/2011 | Zinc | 2.4 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | NW Corner |
| 5/18/2011 | Zinc | 0.7 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | Shop |
| 5/18/2011 | Zinc | 0.7 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | Shop |
| 11/7/2010 | Zinc | 0.44 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | NW Corner |
| 11/7/2010 | Zinc | 0.44 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | NW Corner |
| 11/7/2010 | Zinc | 1.2 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | Shop |
| 11/7/2010 | Zinc | 1.2 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | Shop |
| 1/18/2010 | Zinc | 0.96 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | NW Corner |
| 1/18/2010 | Zinc | 0.96 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | NW Corner |
| 1/18/2010 | Zinc | 1.1 mg/L | 0.081 mg/L (Marine 4-DA) / | Shop |

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|------------|--------|-------------|--|-----------|
| | | | 0.12 mg/L (Fresh 4-DA) | |
| 1/18/2010 | Zinc | 1.1 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | Shop |
| 10/13/2009 | Zinc | 3.1 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | NW Corner |
| 10/13/2009 | Zinc | 3.1 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | NW Corner |
| 10/13/2009 | Zinc | 2.4 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | Shop |
| 10/13/2009 | Zinc | 2.4 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | Shop |
| 1/22/2009 | Zinc | 1.3 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | NW Corner |
| 1/22/2009 | Zinc | 1.3 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | NW Corner |
| 1/22/2009 | Zinc | 0.86 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | Shop |
| 1/22/2009 | Zinc | 0.86 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | Shop |
| 11/1/2008 | Zinc | 5.1 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | NW Corner |
| 11/1/2008 | Zinc | 5.1 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | NW Corner |
| 11/1/2008 | Zinc | 0.77 mg/L | 0.081 mg/L (Marine 4-DA) / 0.12 mg/L (Fresh 4-DA) | Shop |
| 11/1/2008 | Zinc | 0.77 mg/L | 0.09 mg/L (Marine 1-HA) / 0.12 mg/L (Fresh 1-HA) | Shop |
| 3/1/2012 | Copper | 0.028 mg/L | 0.0031 mg/L (Marine 4-DA) / 0.009 mg/L (Fresh 4-DA) | Shop |
| 3/1/2012 | Copper | 0.028 mg/L | 0.0048 mg/L (Marine 1-HA) / 0.013 mg/L (Fresh 1-HA) | Shop |
| 10/5/2011 | Copper | 0.051 mg/L | 0.0031 mg/L (Marine 4-DA) / 0.009 mg/L (Fresh 4-DA) | NW Corner |
| 10/5/2011 | Copper | 0.051 mg/L | 0.0048 mg/L (Marine 1-HA) / 0.013 mg/L (Fresh 1-HA) | NW Corner |
| 10/5/2011 | Copper | 0.027 mg/L | 0.0031 mg/L (Marine 4-DA) / 0.009 mg/L (Fresh 4-DA) | Shop |
| 10/5/2011 | Copper | 0.027 mg/L | 0.0048 mg/L (Marine 1-HA) / 0.013 mg/L (Fresh 1-HA) | Shop |
| 5/18/2011 | Copper | 0.0032 mg/L | 0.0031 mg/L (Marine 4-DA) | NW Corner |
| 5/18/2011 | Copper | 0.018 mg/L | 0.0031 mg/L (Marine 4-DA) / 0.009 mg/L (Fresh 4-DA) | Shop |
| 5/18/2011 | Copper | 0.018 mg/L | 0.0048 mg/L (Marine 1-HA) / 0.013 mg/L (Fresh 1-HA) | Shop |

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| 11/7/2010 | Copper | 0.0034 mg/L | 0.0031 mg/L (Marine 4-DA) | NW Corner |
| 11/7/2010 | Copper | 0.016 mg/L | 0.0031 mg/L (Marine 4-DA) / 0.009 mg/L (Fresh 4-DA) | Shop |
| 11/7/2010 | Copper | 0.016 mg/L | 0.0048 mg/L (Marine 1-HA) / 0.013 mg/L (Fresh 1-HA) | Shop |
| 1/18/2010 | Copper | 0.0033 mg/L | 0.0031 mg/L (Marine 4-DA) | NW Corner |
| 1/18/2010 | Copper | 0.0048 mg/L | 0.0031 mg/L (Marine 4-DA) | Shop |
| 10/13/2009 | Copper | 0.041 mg/L | 0.0048 mg/L (Marine 1-HA) / 0.013 mg/L (Fresh 1-HA) | NW Corner |
| 10/13/2009 | Copper | 0.041 mg/L | 0.0031 mg/L (Marine 4-DA) / 0.009 mg/L (Fresh 4-DA) | NW Corner |
| 10/13/2009 | Copper | 0.018 mg/L | 0.0048 mg/L (Marine 1-HA) / 0.013 mg/L (Fresh 1-HA) | Shop |
| 10/13/2009 | Copper | 0.018 mg/L | 0.0031 mg/L (Marine 4-DA) / 0.009 mg/L (Fresh 4-DA) | Shop |
| 1/22/2009 | Copper | 0.0041 mg/L | 0.0031 mg/L (Marine 4-DA) | NW Corner |
| 1/22/2009 | Copper | 0.012 mg/L | 0.0048 mg/L (Marine 1-HA) / 0.013 mg/L (Fresh 1-HA) | Shop |
| 1/22/2009 | Copper | 0.012 mg/L | 0.0031 mg/L (Marine 4-DA) / 0.009 mg/L (Fresh 4-DA) | Shop |
| 11/1/2008 | Copper | 0.061 mg/L | 0.0048 mg/L (Marine 1-HA) / 0.013 mg/L (Fresh 1-HA) | NW Corner |
| 11/1/2008 | Copper | 0.061 mg/L | 0.0031 mg/L (Marine 4-DA) / 0.009 mg/L (Fresh 4-DA) | NW Corner |
| 11/1/2008 | Copper | 0.07 mg/L | 0.0048 mg/L (Marine 1-HA) / 0.013 mg/L (Fresh 1-HA) | Shop |
| 11/1/2008 | Copper | 0.07 mg/L | 0.0031 mg/L (Marine 4-DA) / 0.009 mg/L (Fresh 4-DA) | Shop |
| 3/1/2012 | Nickel | 0.15 mg/L | 0.0082 mg/L (Marine 4-DA) / 0.052 mg/L (Fresh 4-DA) | NW Corner |
| 3/1/2012 | Nickel | 0.15 mg/L | 0.074 mg/L (Marine 1-HA) | NW Corner |
| 3/1/2012 | Nickel | 0.14 mg/L | 0.0082 mg/L (Marine 4-DA) / 0.052 mg/L (Fresh 4-DA) | Shop |
| 3/1/2012 | Nickel | 0.14 mg/L | 0.074 mg/L (Marine 1-HA) | Shop |
| 10/5/2011 | Nickel | 0.47 mg/L | 0.0082 mg/L (Marine 4-DA) / 0.052 mg/L (Fresh 4-DA) | NW Corner |
| 10/5/2011 | Nickel | 0.47 mg/L | 0.074 mg/L (Marine 1-HA) | NW Corner |
| 10/5/2011 | Nickel | 0.088 mg/L | 0.0082 mg/L (Marine 4-DA) / 0.052 mg/L (Fresh 4-DA) | Shop |
| 10/5/2011 | Nickel | 0.088 mg/L | 0.074 mg/L (Marine 1-HA) | Shop |
| 5/18/2011 | Nickel | 0.17 mg/L | 0.0082 mg/L (Marine 4-DA) / 0.052 mg/L (Fresh 4-DA) | NW Corner |
| 5/18/2011 | Nickel | 0.17 mg/L | 0.074 mg/L (Marine 1-HA) | NW Corner |
| 5/18/2011 | Nickel | 0.056 mg/L | 0.0082 mg/L (Marine 4-DA) / | Shop |

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| | | | 0.052 mg/L (Fresh 4-DA) | |
| 11/7/2010 | Nickel | 0.039 mg/L | 0.0082 mg/L (Marine 4-DA) | NW Corner |
| 11/7/2010 | Nickel | 0.045 mg/L | 0.0082 mg/L (Marine 4-DA) | Shop |
| 1/18/2010 | Nickel | 0.05 mg/L | 0.0082 mg/L (Marine 4-DA) | NW Corner |
| 1/18/2010 | Nickel | 0.045 mg/L | 0.0082 mg/L (Marine 4-DA) | Shop |
| 10/13/2009 | Nickel | 0.37 mg/L | 0.0082 mg/L (Marine 4-DA) / 0.052 mg/L (Fresh 4-DA) | NW Corner |
| 10/13/2009 | Nickel | 0.37 mg/L | 0.074 mg/L (Marine 1-HA) | NW Corner |
| 10/13/2009 | Nickel | 0.1 mg/L | 0.0082 mg/L (Marine 4-DA) / 0.052 mg/L (Fresh 4-DA) | Shop |
| 10/13/2009 | Nickel | 0.1 mg/L | 0.074 mg/L (Marine 1-HA) | Shop |
| 1/22/2009 | Nickel | 0.12 mg/L | 0.0082 mg/L (Marine 4-DA) / 0.052 mg/L (Fresh 4-DA) | NW Corner |
| 1/22/2009 | Nickel | 0.12 mg/L | 0.074 mg/L (Marine 1-HA) | NW Corner |
| 1/22/2009 | Nickel | 0.17 mg/L | 0.0082 mg/L (Marine 4-DA) / 0.052 mg/L (Fresh 4-DA) | Shop |
| 1/22/2009 | Nickel | 0.17 mg/L | 0.074 mg/L (Marine 1-HA) | Shop |
| 11/1/2008 | Nickel | 0.19 mg/L | 0.0082 mg/L (Marine 4-DA) / 0.052 mg/L (Fresh 4-DA) | NW Corner |
| 11/1/2008 | Nickel | 0.19 mg/L | 0.074 mg/L (Marine 1-HA) | NW Corner |
| 11/1/2008 | Nickel | 0.15 mg/L | 0.0082 mg/L (Marine 4-DA) / 0.052 mg/L (Fresh 4-DA) | Shop |
| 11/1/2008 | Nickel | 0.15 mg/L | 0.074 mg/L (Marine 1-HA) | Shop |
| 3/1/2012 | Lead | 0.004 mg/L | 0.0025 mg/L (Fresh 4-DA) | NW Corner |
| 3/1/2012 | Lead | 0.017 mg/L | 0.0025 mg/L (Fresh 4-DA) / 0.0081 mg/L (Marine 4-DA) | Shop |
| 10/5/2011 | Lead | 0.096 mg/L | 0.065 mg/L (Fresh 1-HA) | NW Corner |
| 10/5/2011 | Lead | 0.096 mg/L | 0.0025 mg/L (Fresh 4-DA) / 0.0081 mg/L (Marine 4-DA) | NW Corner |
| 10/5/2011 | Lead | 0.044 mg/L | 0.0025 mg/L (Fresh 4-DA) / 0.0081 mg/L (Marine 4-DA) | Shop |
| 5/18/2011 | Lead | 0.0049 mg/L | 0.0025 mg/L (Fresh 4-DA) | NW Corner |
| 5/18/2011 | Lead | 0.008 mg/L | 0.0025 mg/L (Fresh 4-DA) | Shop |
| 11/7/2010 | Lead | 0.016 mg/L | 0.0025 mg/L (Fresh 4-DA) / 0.0081 mg/L (Marine 4-DA) | Shop |
| 1/18/2010 | Lead | 0.0067 mg/L | 0.0025 mg/L (Fresh 4-DA) | NW Corner |
| 1/18/2010 | Lead | 0.0092 mg/L | 0.0025 mg/L (Fresh 4-DA) / 0.0081 mg/L (Marine 4-DA) | Shop |
| 10/13/2009 | Lead | 0.037 mg/L | 0.0025 mg/L (Fresh 4-DA) / 0.0081 mg/L (Marine 4-DA) | NW Corner |
| 10/13/2009 | Lead | 0.085 mg/L | 0.0025 mg/L (Fresh 4-DA) / 0.0081 mg/L (Marine 4-DA) | Shop |
| 10/13/2009 | Lead | 0.085 mg/L | 0.065 mg/L (Fresh 1-HA) | Shop |

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|------------|-----------|--|---|---|
| 1/22/2009 | Lead | 0.0092 mg/L | 0.0025 mg/L (Fresh 4-DA) / 0.0081 mg/L (Marine 4-DA) | Shop |
| 11/1/2008 | Lead | 0.042 mg/L | 0.0025 mg/L (Fresh 4-DA) / 0.0081 mg/L (Marine 4-DA) | NW Corner |
| 11/1/2008 | Lead | 0.14 mg/L | 0.0025 mg/L (Fresh 4-DA) / 0.0081 mg/L (Marine 4-DA) | Shop |
| 11/1/2008 | Lead | 0.14 mg/L | 0.065 mg/L (Fresh 1-HA) | Shop |
| 11/7/2010 | pH | 9.95 | 6.5 – 8.5 | Shop |
| 11/1/2008 | pH | 9.11 | 6.5 – 8.5 | Shop |
| 3/1/2012 | Narrative | Discoloration and floating materials | Basin Plan 3.3.4 / Basin Plan 3.3.6 | D1 & D2 and Shop Pad Catch Basin |
| 1/23/2012 | Narrative | Discoloration and floating materials | Basin Plan 3.3.4 / Basin Plan 3.3.6 | D2 and Shop Pad Catch Basin |
| 12/16/2011 | Narrative | Discoloration and floating materials | Basin Plan 3.3.4 / Basin Plan 3.3.6 | D2 and Shop Pad Catch Basin |
| 11/24/2011 | Narrative | Discoloration | Basin Plan 3.3.4 | D1 & D3 and Shop Pad Catch Basin |
| 10/5/2011 | Narrative | Discoloration and floating materials | Basin Plan 3.3.4 / Basin Plan 3.3.6 | Shop Pad Catch Basin |
| 10/5/2011 | Narrative | Discoloration and floating materials | Basin Plan 3.3.4 / Basin Plan 3.3.6 | NE Valve, Middle Valve, NW Valve |
| 5/18/2011 | Narrative | Discoloration, floating and suspended materials | Basin Plan 3.3.4/ Basin Plan 3.3.6/ Basin Plan 3.3.14 | NW Outfall and Shop Outfall |
| 4/22/2011 | Narrative | Floating and suspended materials | Basin Plan 3.3.6/ Basin Plan 3.3.14 | NW Outfall |
| 3/18/2011 | Narrative | Discoloration, floating and suspended materials | Basin Plan 3.3.4/ Basin Plan 3.3.6/ Basin Plan 3.3.14 | NW Outfall |
| 2/16/2011 | Narrative | Discoloration, | Basin Plan 3.3.4/ | Shop |

| | | | | |
|------------|-----------|--|---|--------------------------------------|
| | | floating and suspended materials | Basin Plan 3.3.6/ Basin Plan 3.3.14 | Outfall |
| 1/11/2011 | Narrative | Discoloration | Basin Plan 3.3.4 | NW Outfall |
| 12/4/2010 | Narrative | Discoloration | Basin Plan 3.3.4 | NW Outfall |
| 11/7/2010 | Narrative | Discoloration, floating and suspended materials | Basin Plan 3.3.4/ Basin Plan 3.3.6/ Basin Plan 3.3.14 | NW Outfall and Shop Outfall |
| 5/27/2010 | Narrative | Sheen, floating and suspended materials | Basin Plan 3.3.7/ Basin Plan 3.3.6/ Basin Plan 3.3.14 | NW and Shop |
| 4/4/2010 | Narrative | Floating and suspended materials | Basin Plan 3.3.6/ Basin Plan 3.3.14 | NW |
| 2/23/2010 | Narrative | Sheen, floating and suspended materials | Basin Plan 3.3.7/ Basin Plan 3.3.6/ Basin Plan 3.3.14 | NW |
| 1/18/2010 | Narrative | Discoloration, floating and suspended materials | Basin Plan 3.3.4/ Basin Plan 3.3.6/ Basin Plan 3.3.14 | NW |
| 12/11/2009 | Narrative | Sheen, Discoloration | Basin Plan 3.3.7/ Basin Plan 3.3.4 | NW and Shop |
| 11/16/2009 | Narrative | Discoloration | Basin Plan 3.3.4 | NW |
| 10/13/2009 | Narrative | Discoloration, floating and suspended materials | Basin Plan 3.3.4/ Basin Plan 3.3.6/ Basin Plan 3.3.14 | NW and Shop |
| 4/7/2009 | Narrative | Discoloration | Basin Plan 3.3.4 | Shop |
| 2/11/2009 | Narrative | Discoloration | Basin Plan 3.3.4 | NW and Shop |
| 1/22/2009 | Narrative | Discoloration, floating and suspended materials | Basin Plan 3.3.4/ Basin Plan 3.3.6/ Basin Plan 3.3.14 | NW |
| 11/1/2008 | Narrative | Discoloration | Basin Plan 3.3.4 | NW and Shop |
| 1/18/2008 | Narrative | Discoloration | Basin Plan 3.3.4 | NW |

The information in the above table reflects data gathered from Criterion Catalysts' self-monitoring during the 2007-2008, 2008-2009, 2009-2010, 2010-2011, and 2011-2012 wet seasons. CSPA alleges that during each of those wet seasons and continuing through today, Criterion Catalysts has discharged storm water contaminated with pollutants at levels that exceed one or more applicable water quality standards, including but not limited to each of the following¹:

- Zinc – 0.081 mg/L (Marine 4-day average);
- Zinc – 0.12 mg/L (Freshwater 4-day average);
- Zinc – 0.09 mg/L (Marine 1-hour average);
- Zinc – 0.12 mg/L (Freshwater 1-hour average);
- Copper – 0.0031 mg/L (Marine 4-day average);
- Copper – 0.009 mg/L (Freshwater 4-day average);
- Copper – 0.0048 mg/L (Marine 1-hour average);
- Copper – 0.013 mg/L (Freshwater 1-hour average);
- Nickel – 0.0082 mg/L (Marine 4-day average);
- Nickel – 0.052 mg/L (Freshwater 4-day average);
- Nickel – 0.074 mg/L (Marine 1-hour average);
- Lead – 0.0025 mg/L (Freshwater 4-day average);
- Lead – 0.0081 mg/L (Marine 4-day average);
- Lead – 0.065 mg/L (Freshwater 1-hour average);
- pH – between 6.5 and 8.5;
- Suspended Material – waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses;
- Floating Material – waters shall not contain floating material, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses;
- Discoloration – waters shall be free of coloration that causes nuisance or adversely affects beneficial uses; and
- Sheen – waters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.

¹ On information and belief, CSPA alleges that the Facility's storm water discharges to Suisun Bay in an area in which the salinity is between 1 and 10 parts per thousand. Thus, according to the Basin Plan, the more stringent of the freshwater (Table 304) or marine (Table 3-3) objectives would apply. See Table 3-3, FN(a); Table 3-4, FN(a). To the extent that the area is entirely freshwater or marine, CSPA has listed both standards where applicable.

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit.

| Date | Parameter | Observed Concentration | EPA Benchmark Value | Outfall (as identified by the Facility) |
|-------------|----------------------------|-------------------------------|----------------------------|--|
| 3/1/2012 | Zinc | 0.76 mg/L | 0.117 mg/L | NW Corner |
| 3/1/2012 | Nitrate + Nitrite Nitrogen | 10.7 mg/L | 0.68 mg/L | NW Corner |
| 3/1/2012 | Aluminum | 1.5 mg/L | 0.75 mg/L | Shop |
| 3/1/2012 | Iron | 1.5 mg/L | | Shop |
| 3/1/2012 | Zinc | 0.68 mg/L | 0.117 mg/L | Shop |
| 3/1/2012 | Nitrate + Nitrite Nitrogen | 4.78 mg/L | 0.68 mg/L | Shop |
| 10/5/2011 | Total Suspended Solids | 346 mg/L | 100 mg/L | NW Corner |
| 10/5/2011 | Aluminum | 14 mg/L | 0.75 mg/L | NW Corner |
| 10/5/2011 | Iron | 11 mg/L | | NW Corner |
| 10/5/2011 | Zinc | 3.3 mg/L | 0.117 mg/L | NW Corner |
| 10/5/2011 | Nitrate + Nitrite Nitrogen | 17.1 mg/L | 0.68 mg/L | NW Corner |
| 10/5/2011 | Aluminum | 2.2 mg/L | 0.75 mg/L | Shop |
| 10/5/2011 | Iron | 3.1 mg/L | | Shop |
| 10/5/2011 | Zinc | 1.2 mg/L | 0.117 mg/L | Shop |
| 10/5/2011 | Nitrate + Nitrite Nitrogen | 1.13 mg/L | 0.68 mg/L | Shop |
| 5/18/2011 | Zinc | 2.4 mg/L | 0.117 mg/L | NW Corner |
| 5/18/2011 | Nitrate + Nitrite Nitrogen | 2.2 mg/L | 0.68 mg/L | NW Corner |
| 5/18/2011 | Zinc | 0.7 mg/L | 0.117 mg/L | Shop |
| 5/18/2011 | Nitrate + Nitrite Nitrogen | 0.91 mg/L | 0.68 mg/L | Shop |
| 11/7/2010 | Zinc | 0.44 mg/L | 0.117 mg/L | NW Corner |
| 11/7/2010 | Nitrate + Nitrite Nitrogen | 8.2 mg/L | 0.68 mg/L | NW Corner |
| 11/7/2010 | pH | 9.95 s.u. | 6.0 – 9.0 s.u. | Shop |
| 11/7/2010 | Aluminum | 0.8 mg/L | 0.75 mg/L | Shop |
| 11/7/2010 | Zinc | 1.2 mg/L | 0.117 mg/L | Shop |
| 11/7/2010 | Nitrate + Nitrite Nitrogen | 1.13 mg/L | 0.68 mg/L | Shop |
| 1/18/2010 | Zinc | 0.96 mg/L | 0.117 mg/L | NW Corner |
| 1/18/2010 | Nitrate + Nitrite Nitrogen | 5.4 mg/L | 0.68 mg/L | NW Corner |

| | | | | |
|------------|-------------------------------|------------|----------------|-----------|
| 1/18/2010 | Zinc | 1.1 mg/L | 0.117 mg/L | Shop |
| 1/18/2010 | Nitrate + Nitrite Nitrogen | 1.97 mg/L | 0.68 mg/L | Shop |
| 10/13/2009 | Total Suspended Solids | 141 mg/L | 100 mg/L | NW Corner |
| 10/13/2009 | Aluminum | 8.4 mg/L | 0.75 mg/L | NW Corner |
| 10/13/2009 | Iron | 6.5 mg/L | 1.0 mg/L | NW Corner |
| 10/13/2009 | Zinc | 3.1 mg/L | 0.117 mg/L | NW Corner |
| 10/13/2009 | Nitrate + Nitrite Nitrogen | 8.2 mg/L | 0.68 mg/L | NW Corner |
| 10/13/2009 | Aluminum | 2.9 mg/L | 0.75 mg/L | Shop |
| 10/13/2009 | Iron | 2.8 mg/L | 1.0 mg/L | Shop |
| 10/13/2009 | Zinc | 2.4 mg/L | 0.117 mg/L | Shop |
| 10/13/2009 | Nitrate + Nitrite Nitrogen | 3.32 mg/L | 0.68 mg/L | Shop |
| 10/13/2009 | Lead | 0.085 mg/L | 0.0816 mg/L | Shop |
| 1/22/2009 | Zinc | 1.3 mg/L | 0.117 mg/L | NW Corner |
| 1/22/2009 | Total Suspended Solids | 117 mg/L | 100 mg/L | Shop |
| 1/22/2009 | Aluminum | 2.5 mg/L | 0.75 mg/L | Shop |
| 1/22/2009 | Iron | 1.4 mg/L | 1.0 mg/L | Shop |
| 1/22/2009 | Zinc | 0.86 mg/L | 0.117 mg/L | Shop |
| 1/22/2009 | Nitrate + Nitrite Nitrogen | 1.3 mg/L | 0.68 mg/L | Shop |
| 11/1/2008 | Total Suspended Solids | 464 mg/L | 100 mg/L | NW Corner |
| 11/1/2008 | Aluminum | 9.1 mg/L | 0.75 mg/L | NW Corner |
| 11/1/2008 | Iron | 7.6 mg/L | 1.0 mg/L | NW Corner |
| 11/1/2008 | Zinc | 5.1 mg/L | 0.117 mg/L | NW Corner |
| 11/1/2008 | Nitrate + Nitrite Nitrogen | 5.5 mg/L | 0.68 mg/L | NW Corner |
| 11/1/2008 | pH | 9.11 s.u. | 6.0 – 9.0 s.u. | Shop |
| 11/1/2008 | Total Suspended Solids | 152 mg/L | 100 mg/L | Shop |
| 11/1/2008 | Aluminum | 5.2 mg/L | 0.75 mg/L | Shop |
| 11/1/2008 | Iron | 7.6 mg/L | 1.0 mg/L | Shop |
| 11/1/2008 | Zinc | 0.77 mg/L | 0.117 mg/L | Shop |
| 11/1/2008 | Nitrate + Nitrite Nitrogen | 1.31 mg/L | 0.68 mg/L | Shop |
| 11/1/2008 | Copper | 0.07 mg/L | 0.0636 mg/L | Shop |
| 11/1/2008 | Lead | 0.14 mg/L | 0.0816 mg/L | Shop |

The information in the above table reflects data gathered from Criterion Catalysts' self-monitoring during the 2008-2009, 2009-2010, 2010-2011, 2011-2012 wet seasons. CSPA alleges that during each of those wet seasons and continuing through today, Criterion Catalysts has discharged storm water contaminated with pollutants at levels that exceed one or more applicable EPA Benchmarks, including but not limited to each of the following:

Total Suspended Solids – 100 mg/L
Aluminum – 0.75 mg/L
Iron – 1 mg/L
Zinc – 0.117 mg/L
Copper – 0.0636 mg/L
Nitrate + Nitrite Nitrogen – 0.68 mg/L
pH – 6.0 – 9.0 s.u.

CSPA's investigation, including its review of Criterion Catalysts' analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards and EPA's benchmark values indicates that Criterion Catalysts has not implemented BAT and BCT at the Facility for its discharges of total suspended solids, N+N, aluminum, copper, iron, lead, zinc, nickel, pH, and other pollutants, in violation of Effluent Limitation B(3) of the General Permit. Criterion Catalysts was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, Criterion Catalysts is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CSPA alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since January 16, 2008 and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CSPA alleges that Criterion Catalysts has discharged storm water containing impermissible levels of total suspended solids, N+N, aluminum, copper, iron, lead, zinc, nickel, and pH in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.²

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Industrial Storm Water Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Criterion Catalysts is subject to penalties for violations of the General Permit and the Act since January 16, 2008.

² The rain dates are all the days when 0.1" or more rain fell as measured by a weather station five miles from the facility in Concord.

B. Failure to Develop and Implement an Adequate Monitoring and Reporting Program

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the "quality and quantity of the facility's storm water discharges from the storm event."

The above referenced data was obtained from the Facility's monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. To the extent the storm water data collected by Criterion Catalysts is not representative of the quality of the Facility's various storm water discharges and that the Facility failed to monitor all qualifying storm water discharges, CSPA, alleges that the Facility's monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit. CSPA also alleges that Criterion Catalysts has failed to conduct monthly visual observations of all storm water discharge locations at the Facility.

The above violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Criterion Catalysts is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since January 16, 2008.

C. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan.

Section A and Provision E(2) of the General Industrial Storm Water Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan ("SWPPP") no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to the General Permit to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices ("BMPs") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water

collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9), (10)).

CSPA's investigation of the conditions at the Facility as well as Criterion Catalysts' Annual Reports indicate that Criterion Catalysts has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. Criterion Catalysts has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Criterion Catalysts has been in continuous violation of Section A and Provision E(2) of the General Permit every day since January 16, 2008, at the very latest, and will continue to be in violation every day that Criterion Catalysts fails to prepare, implement, review, and update an effective SWPPP. Criterion Catalysts is subject to penalties for violations of the Order and the Act occurring since January 16, 2008.

D. Failure to File True and Correct Annual Reports.

Section B(14) of the General Industrial Storm Water Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), (10). Section A(9)(d) of the General Industrial Storm Water Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Industrial Storm Water Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

For the last five years, Criterion Catalysts and its agents, Jeff Luengo, Alvin Lim, and Dave Olund, inaccurately certified in their Annual Reports that the facility was in compliance with the General Permit. Consequently, Criterion Catalysts has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Industrial Storm Water Permit every time Criterion Catalysts failed to submit a complete or correct report and every time Criterion Catalysts or its agents falsely purported to comply with the Act. Criterion Catalysts is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since January 16, 2008.

IV. Persons Responsible for the Violations.

CSPA puts Criterion Catalysts, Pat Laabs, Jeff Luengo, and Dave Olund on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CSPA puts Criterion Catalysts, Pat Laabs, Jeff Luengo, and Dave Olund on notice that it intends to include those persons in this action.

V. Name and Address of Noticing Parties.

The name, address and telephone number of California Sportfishing Protection Alliance is as follows:

Bill Jennings, Executive Director;
California Sportfishing Protection Alliance,
3536 Rainier Avenue,
Stockton, CA 95204
Tel. (209) 464-5067
Fax (209) 464-1028
E-Mail: deltakeep@me.com

VI. Counsel.

CSPA has retained our office to represent it in this matter. Please direct all communications to:

Michael R. Lozeau .
Douglas J. Chermak
Lozeau Drury LLP
410 12th Street, Suite 250
Oakland, California 94607
Tel. (510) 836-4200
michael@lozeaudrury.com
doug@lozeaudrury.com

VII. Penalties.

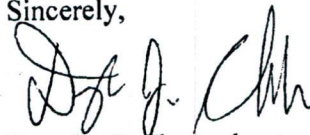
Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Criterion Catalysts to a penalty of up to \$32,500 per day per violation for all violations occurring during the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit through January 12, 2009, and a maximum of \$37,500 per day per violation for all violations occurring after January 12, 2009. In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the

Criterion Catalysts & Technologies, LP
January 16, 2013
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Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CSPA believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CSPA intends to file a citizen suit under Section 505(a) of the Act against Criterion Catalysts and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CSPA would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CSPA suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. CSPA does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Douglas J. Chermak
Lozeau Drury LLP
Attorneys for California Sportfishing Protection Alliance

cc via first-class mail: CT Corporation, Agent for Service of Process for Criterion Catalysts
& Technologies L.P. (Entity 198832000005/ C0168406)
818 W. 7th St.
Los Angeles, CA 90017

Notice of Violations and Intent to File Suit

SERVICE LIST

Lisa Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Eric Holder, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Jared Blumenfeld, Regional Administrator
U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA, 94105

Bruce H. Wolfe, Executive Officer II
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

ATTACHMENT A

Rain Dates, Criterion Catalysts, Pittsburg, California

| | | |
|------------|------------|------------|
| 1/21/2008 | 10/13/2009 | 4/28/2010 |
| 1/22/2008 | 10/19/2009 | 5/10/2010 |
| 1/23/2008 | 11/20/2009 | 5/17/2010 |
| 1/25/2008 | 11/27/2009 | 5/25/2010 |
| 1/26/2008 | 12/6/2009 | 5/26/2010 |
| 1/27/2008 | 12/7/2009 | 5/27/2010 |
| 1/31/2008 | 12/11/2009 | 10/23/2010 |
| 2/2/2008 | 12/12/2009 | 10/24/2010 |
| 2/19/2008 | 12/13/2009 | 11/7/2010 |
| 2/21/2008 | 12/26/2009 | 11/19/2010 |
| 2/23/2008 | 1/12/2010 | 11/20/2010 |
| 2/24/2008 | 1/18/2010 | 11/23/2010 |
| 3/15/2008 | 1/19/2010 | 11/27/2010 |
| 11/26/2008 | 1/20/2010 | 12/5/2010 |
| 12/14/2008 | 1/21/2010 | 12/8/2010 |
| 12/19/2008 | 1/23/2010 | 12/14/2010 |
| 12/21/2008 | 1/25/2010 | 12/17/2010 |
| 12/24/2008 | 1/26/2010 | 12/18/2010 |
| 12/25/2008 | 1/29/2010 | 12/19/2010 |
| 1/21/2009 | 2/4/2010 | 12/21/2010 |
| 1/22/2009 | 2/6/2010 | 12/25/2010 |
| 1/23/2009 | 2/9/2010 | 12/28/2010 |
| 2/6/2009 | 2/21/2010 | 1/1/2011 |
| 2/13/2009 | 2/23/2010 | 1/2/2011 |
| 2/15/2009 | 2/26/2010 | 1/30/2011 |
| 2/16/2009 | 2/27/2010 | 2/15/2011 |
| 2/17/2009 | 3/2/2010 | 2/16/2011 |
| 2/22/2009 | 3/3/2010 | 2/17/2011 |
| 2/24/2009 | 3/10/2010 | 2/18/2011 |
| 3/1/2009 | 3/12/2010 | 2/19/2011 |
| 3/2/2009 | 3/30/2010 | 2/24/2011 |
| 3/3/2009 | 3/31/2010 | 2/25/2011 |
| 3/4/2009 | 4/4/2010 | 3/6/2011 |
| 3/5/2009 | 4/11/2010 | 3/14/2011 |
| 3/22/2009 | 4/12/2010 | 3/15/2011 |
| 4/7/2009 | 4/20/2010 | 3/18/2011 |
| 4/8/2009 | 4/21/2010 | 3/19/2011 |
| 5/1/2009 | 4/27/2010 | 3/20/2011 |

Notice of Violations and Intent to File Suit

ATTACHMENT A

Rain Dates, Criterion Catalysts, Pittsburg, California

| | |
|------------|------------|
| 3/23/2011 | 10/22/2012 |
| 3/24/2011 | 10/31/2012 |
| 3/25/2011 | 11/1/2012 |
| 3/26/2011 | 11/9/2012 |
| 4/7/2011 | 11/16/2012 |
| 5/17/2011 | 11/17/2012 |
| 6/1/2011 | 11/30/2012 |
| 6/4/2011 | 12/2/2012 |
| 6/5/2011 | 12/21/2012 |
| 6/28/2011 | 12/22/2012 |
| 10/3/2011 | 12/23/2012 |
| 10/5/2011 | 12/25/2012 |
| 11/5/2011 | 1/5/2013 |
| 11/11/2011 | |
| 11/19/2011 | |
| 11/24/2011 | |
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| 4/12/2012 | |
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| 4/25/2012 | |
| 5/8/2012 | |
| 6/4/2012 | |